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March 8, 1999

BY HAND DELIVERY

Ms. Magalie R. Salas, Secretary
Federal Communications Commission
1919 M Street, N.W.
Room 222
Washington, D.C. 20554

RECEIVED

MAR 8 1999

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Re:


In the Matter of Amendment of Section 73.202(b) Table of Allotments FM Broadcast Stations (Cross Plains, et. al.) MM Docket No. 98-198; RM-9304
--

Dear Ms. Salas:

Transmitted herewith on behalf of Wagonwheel Broadcasting of Santa Anna are an original and four (4) copies of its "Motion to Strike" as directed to the Allocations Branch.

Should any additional information be required, please contact this office.

Very truly yours,


Henry E. Crawford
Counsel for
Wagonwheel Broadcasting of
Santa Anna

cc: the Allocations Branch

No. of Copies Held 0+4
List A B C D E

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C.

In the Matter of

Amendment of Section 73.202(b)
Table of Allotments
FM Broadcast Stations
(Cross Plains, Texas et al.)

MM Docket No. 98-198

RM-9304

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**FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY**

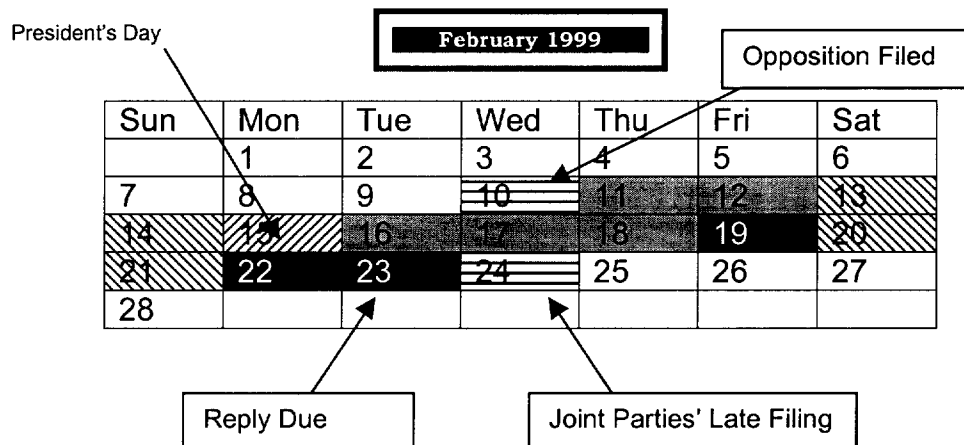
To: The Allocations Branch
Policy and Rules Division
Mass Media Bureau

MOTION TO STRIKE

Wagonwheel Broadcasting of Santa Anna ("Wagonwheel"), by counsel, in accordance with 47 CFR §1.45(a), hereby moves to strike the *Reply to Motion for Leave to Supplement Record and Second Supplement to Counterproposal* ("Reply") filed in the above-referenced proceeding by First Broadcasting Management, L.L.C. ("FMB"), Gain-Air, Inc. and KCYT-FM License Corp. (collectively referred to as the "Joint Parties") on February 24, 1999. The pleading was filed out-of-time and cannot be accepted in this proceeding for any reason. In support thereof, the following is stated:

1. In pleading cycles involving routine motions, Section 1.45(b) of the Commission's Rules requires that any reply pleading be filed no later than 5 days after the time for filing oppositions has expired. As noted in the Reply, Wagonwheel filed its opposition on February 10, 1999. Reply p. 1.

2. Section 1.4(g) of the Commission Rules states that where, as here, the filing period is less than 7 days, intermediate holidays shall not be counted in determining the filing date. In this case, President's Day occurred on February, 15, 1999. Additionally, Section 1.4(h) allows for 3 extra days (excluding holidays) where the document is served by mail. In accordance with the interplay of these rules, the Joint Parties' reply pleading was due to be filed no later than Tuesday, February 23, 1999. However, the Joint Parties failed to adhere to these rules and instead filed on Wednesday, February 24, 1999. These facts are illustrated by the following diagram:



3. This is hardly the first time that the Joint Parties or parties associated with the Joint Parties have failed to act in a timely manner in this proceeding. Rehashing these incidents again, however, would serve no useful purpose. It is enough to note that the Joint Parties seem inherently incapable of observing the Commission's deadline rules.

4. The Reply was clearly filed in an untimely manner. The tardiness is entirely without excuse. Therefore, the Reply cannot be accepted by the Commission for any purpose.

WHEREFORE, Wagonwheel Broadcasting of Santa Anna respectfully requests that the Reply to Motion for Leave to Supplement Record and Second Supplement to Counterproposal filed by First Broadcasting Management, L.L.C., Gain-Air, Inc. and KCYT-FM License Corp. be denied and stricken from the record.

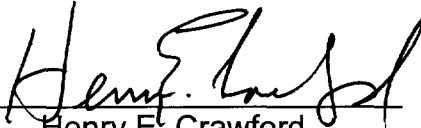
March 8, 1999

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Respectfully Submitted,

Wagonwheel Broadcasting
of Santa Anna

By:


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Its Attorney

CERTIFICATE OF SERVICE

I, Henry E. Crawford, do hereby certify that copies of the foregoing Motion to Strike have been served by United States mail, postage prepaid this 8th day of March, 1999 upon the following:

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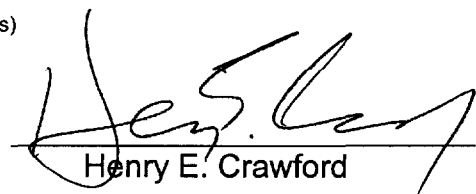
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